

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EDWARD VEGA,

Plaintiff,

DECISION AND ORDER

03-CV-6250L

v.


FLOYD BENNETT, Superintendent
Elmira Correctional Facility, et al.,

Defendants.

On April 9, 2007, defendants in this action filed a motion for summary judgment. By letter to the Court dated May 8, 2007, counsel for defendants states that he seeks to withdraw that motion based on controlling Second Circuit precedent.

Defendants' application is granted. Defendants' motion for summary judgment (Dkt. #39) is deemed withdrawn and denied.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
May 10, 2007.